

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF PUERTO RICO

**MELBA VAZQUEZ-MCLEAR,**

**Plaintiff,**

**v.**

**STATE INSURANCE FUND, et al.,**

**Defendants.**

**Civil No. 12-1927 (GAG)**

**MEMORANDUM OPINION AND ORDER**

Melba Vazquez McLear (“Plaintiff”) filed a motion for reconsideration (Docket No. 54) after the court dismissed her case (Docket No. 47). Defendants opposed the motion (Docket No. 55). After reviewing the pleadings and the pertinent law, the court **DENIES** Plaintiff’s motion for reconsideration.

In its prior opinion and order, the court held Plaintiff did not include sufficient factual allegations as to each defendant’s participation. The court stands by its prior ruling. In Soto-Torres v. Fraticelli, the First Circuit held that the plaintiff’s statement that the defendant “participated in or directed the constitutional violation . . .” was insufficient to survive a motion to dismiss because it “provided no facts to support either that he participated in’ or ‘directed’ the alleged violations). 654 F.3d 153, 159 (1st Cir. 2011). In Penalbert-Rosa v. Fortuno-Burset, the First Circuit found the plaintiff’s allegations to be threadbare and speculative and therefore insufficient to bring a complaint within the realm of plausibility. 631 F.3d at 595. The only allegation against the defendants was that they “participated” or “approved” of the firing, but did not include factual explanation whatsoever.

In its motion for reconsideration, Plaintiff cites to Ocasio v. Hernandez to show her complaint includes sufficient allegations. Unlike Soto-Torres and Penalbert-Rosa, the complaint in Ocasio includes “well-pleaded factual allegations that detail each of [the] defendants’ level of personal involvement in and familiarity with the plaintiffs’ terminations.” 640 F.3d 1, 16 (1st Cir.

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3 2011). In the instant case, the court finds that Plaintiff did not include sufficient factual allegations  
4 as to each defendant's participation.

5 **Conclusion**

6 For the reasons set forth above, the court **DENIES** Plaintiff's motion for reconsideration.

7 **SO ORDERED.**

8 In San Juan, Puerto Rico this 7th day of August, 2013.

9  
10 *s/ Gustavo A. Gelpi*

11 GUSTAVO A. GELPI

12 United States District Judge  
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